



Department of Justice

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CALIFORNIA EXECUTIVE AGREES TO PLEAD GUILTY TO BID RIGGING ON CONTRACTS WITH THE US NAVY AND OTHERS

WASHINGTON — The president of a California marine products company was charged today with conspiring to rig bids and allocate customers with respect to the sale of foam-filled marine fenders and buoys purchased by the U.S. Navy, the U.S. Coast Guard, and other public and private entities. The executive has agreed to plead guilty to the charge and serve an eight-month sentence, including four months in jail and four months in home detention, and to pay a criminal fine of \$50,000.

According to the one-count felony charge filed today in the U.S. District Court in Norfolk, Va., Gerald Thermos, president of a marine products company located in Wilmington, Calif., participated in a conspiracy between June 2000 and August 2005 to allocate customers and rig bids for contracts of marine foam-filled fenders and buoys. The conspirators discussed and agreed among themselves which of them would win contracts from the Department of Defense (DOD), the Department of Homeland Security and others.

"The Antitrust Division is dedicated to vigorously prosecuting fraudulent schemes such as this one which deprive the U.S. military of the benefits of competitive contracts and divert taxpayer funds to the pockets of criminals," said Scott D. Hammond, Deputy Assistant Attorney General in charge of the Antitrust Division's Criminal Enforcement Program.

Thermos is charged with carrying out the conspiracy with co-conspirators by:

- Attending meetings and engaging in discussions by telephone, facsimile and electronic mail regarding the sale of foam-filled marine fenders and buoys sold in the United States and elsewhere;
- Agreeing during those meetings and discussions to allocate jobs and to create and exchange order logs in order to implement and monitor this agreement;
- Agreeing during those meetings and discussions not to compete for one another's customers either by not submitting prices or bids to certain customers, or by submitting intentionally high prices or bids to certain customers;
- Submitting bids in accordance with the agreements reached;
- Selling foam-filled marine fenders and buoys to the U.S. Coast Guard, the U.S. Navy and others pursuant to those agreements at collusive and noncompetitive prices;
- Accepting payment for foam-filled marine fenders and buoys sold at the collusive and noncompetitive prices; and
- Authorizing or consenting to the participation of subordinate employees and/or distributors in the conspiracy.

Foam-filled marine fenders are used as a cushion between ships and fixed structures, such as docks, piers, or other ships. Foam-filled buoys are used in a variety of applications, including use as channel markers and navigational aids.

"Price fixing and bid rigging are serious concerns when it relates to the products and services procured by the Department of Defense," said Rick Gwin, Special Agent in Charge, Defense Criminal Investigative Service (DCIS), Western Field Office. "The DCIS will continue to aggressively investigate all cases involving price fixing and bid rigging as it relates to the DOD."

Under the plea agreement, which is subject to court approval, Thermos has agreed to cooperate with the Department's ongoing investigation.

Thermos is charged with bid rigging and customer allocation in violation of the Sherman Act, 15 U.S.C. § 1, which carries a maximum sentence of ten years of imprisonment, and a fine

of \$1 million for individuals and \$100 million for corporations. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

The investigation is being conducted by the Antitrust Division's National Criminal Enforcement Section with the assistance of the DOD's Office of Inspector General, Defense Criminal Investigative Service, and the United States Navy Criminal Investigative Service.

Anyone with information concerning bid rigging or other anti-competitive conduct regarding marine fenders or related products is urged to call the National Criminal Enforcement Section of the Antitrust Division at (202) 307-6694 or the Mission Viejo Office of the Defense Criminal Investigative Service at (949) 643-4191.

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